

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

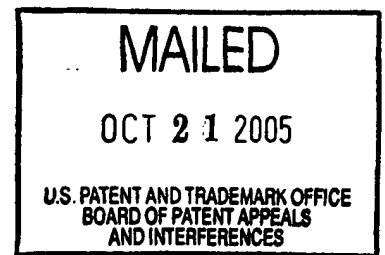
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte AKRAM M. HOSAIN, EMAD QADDOURA,  
MARY BARNES and HASEEB AKHTAR

Appeal No. 2005-2079  
Application No. 09/412,099

ON BRIEF



Before JERRY SMITH, SAADAT, and MACDONALD, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-3, 5-8, 16-22 and 24-39, which constitute all the claims in the application.

The disclosed invention pertains to an accounting framework for the various types of services offered by service providers over a data network in which usage of services over the network is accounted for and which defines accounting units of predetermined formats that form basic units for the exchange of accounting information.

Representative claim 1 is reproduced as follows:

1. A method of accounting for services provided over a packet-based network, comprising:  
determining a type of service used over the network;  
monitoring usage of the service; and  
collecting accounting information based on the type of service and usage of the service, wherein collecting the accounting information includes compiling the accounting information into an accounting unit,  
wherein the accounting unit has a first entry to indicate a quality of service provided over the packet-based network, and a second entry to indicate mobility management.

The examiner relies on the following references:

Brown	5,740,361	Apr. 14, 1998
Rai et al. (Rai)	6,377,982	Apr. 23, 2002 (filed Aug. 24, 1998)

Claims 1-3, 5-8, 16-19, 21, 22, 24-31 and 34-39 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Rai. Claims 32 and 33 stand rejected under 35 U.S.C. § 103(a). As evidence of obviousness the examiner offers Rai in view of Brown. The rejection of claim 20 has been withdrawn by the examiner [answer, page 8], and therefore, is no longer before us.

Rather than repeat the arguments of appellants or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of anticipation and obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellants' arguments set forth in the briefs along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the evidence relied upon by the examiner fails to support the examiner's rejections. Accordingly, we reverse.

We consider first the rejection of claims 1-3, 5-8, 16-19, 21, 22, 24-31 and 34-39 under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Rai. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L.

Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

The examiner has indicated how he finds the claimed invention to be anticipated by the disclosure of Rai [answer, pages 3-7]. With respect to independent claim 1, appellants argue that Rai does not disclose an accounting unit that has an entry indicating a quality of service and another entry indicating mobility management. Specifically, appellants argue that the portions of Rai cited by the examiner fail to support the rejection. With respect to independent claims 21 and 31, appellants argue that Rai fails to disclose an accounting unit having a first entry indicating a quality of service and a second entry indicating usage of mobility management. With respect to independent claim 16, appellants argue that Rai fails to disclose an accounting unit having an entry indicating a quality of service provided over a packet-based network. With respect to independent claim 29, appellants argue that Rai fails to disclose collecting accounting units including an entry that identifies mobility management or an entry that identifies an amount of data communicated [brief, pages 10-13].

The examiner responds that he interprets "accounting unit" to mean just data without any physical meaning. The examiner also notes that the term "mobility management" is interpreted to mean roaming. The examiner asserts that the order of the entries in the accounting unit is of no significance. The examiner then quotes portions of Rai and states "[t]herefore, Rai clearly teaches that an accounting unit or accounting information has an entry or parameter indicating a quality of service and another entry/parameter indicating mobility management." The examiner then quotes several more portions of Rai and follows each quotation with a statement that Rai clearly teaches the claimed invention [answer, pages 8-12].

Appellants respond that they have not argued that the order of entries is important. They argue that the term "accounting unit" is well defined by the claim itself, and that it requires two specific entries as set forth in claim 1. Appellants note that even though Rai mentions mobility and quality of service, Rai does not teach an accounting unit that contains a first entry too indicate a quality of service provided over a packet-based network, and a second entry to indicate mobility management [reply brief, pages 2-5].

We will not sustain the examiner's rejection of any of independent claims 1, 16, 21, 29 or 31. These claims essentially recite the accounting unit as being a data structure having specific entries which form part of the data structure. The examiner's position that the claimed accounting unit is fully met by the fact that the same accounting information is available in Rai fails to consider the accounting unit as a data structure as claimed. Appellants' invention lies not in the fact that certain information is used in accounting, but instead, that a data structure termed an accounting unit is created that contains specific data as part of that structure. The examiner has failed to identify any data structure in Rai, and we have found none, that corresponds to the claimed accounting unit. We agree with appellants that the portions of Rai quoted by the examiner fail to disclose the claimed accounting unit. Whether it would have been obvious to one of ordinary skill in the art to create a data structure or accounting unit made up of a quality of service entry and a mobility management entry is a question which is not before us. Since we have not sustained the rejection of any of the independent claims, we also do not sustain the examiner's rejection of any of the dependent claims.

We now consider the rejection of claims 32 and 33 under 35 U.S.C. § 103 based on Rai and Brown. Claim 32 recites a data structure having three specific fields. For reasons discussed above, Rai fails to disclose a data structure of any type. Therefore, the examiner's findings with respect to Rai are unsupported for reasons discussed above. Accordingly, the examiner has failed to establish a prima facie case of obviousness.

In summary, we have not sustained either of the examiner's rejections of the claims on appeal. Therefore, the decision of the examiner rejecting claims 1-3, 5-8, 16-19, 21, 22 and 24-39 is reversed.

REVERSED

*Jerry Smith*

JERRY SMITH  
Administrative Patent Judge )  
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*Mahshid D. Saadat*

MAHSHID D. SAADAT  
Administrative Patent Judge )  
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*Allen R. MacDonald*

ALLEN R. MACDONALD  
Administrative Patent Judge )  
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DAN C. HU  
TROP, PRUNER, HU & MILES, P.C.  
8554 KATY FREEWAY  
SUITE 100  
HOUSTON, TX 77024